

VZCZCXRO7009
OO RUEHMR
DE RUEHC #0530/01 1622245
ZNR UUUUU ZZH
O 112216Z JUN 09
FM SECSTATE WASHDC
TO AMEMBASSY MASERU IMMEDIATE 6974

UNCLAS SECTION 01 OF 05 STATE 060530

SIPDIS

E.O. 12958: N/A

TAGS: [ELAB](#) [KCRM](#) [KWMN](#) [LO](#) [PGOV](#) [PHUM](#) [PREL](#) [SMIG](#) [KTIP](#) [KPAO](#)
SUBJECT: LESOTHO -- 2009 TIP REPORT: PRESS GUIDANCE AND
DEMARCHÉ

REF: (A) STATE 59732 (B) STATE 005577

11. This is an action cable; see paras 5 through 7 and 10.

12. On June 16, 2009, at 10:00 a.m. EDT, the Secretary will release the 2009 Trafficking in Persons (TIP) Report at a press conference in the Department's press briefing room. This release will receive substantial coverage in domestic and foreign news outlets. Until the time of the Secretary's June 16 press conference, any public release of the Report or country narratives contained therein is prohibited.

13. The Department is hereby providing Post with advance press guidance to be used on June 16 or thereafter. Also provided is demarche language to be used in informing the Government of Lesotho of its tier ranking and the TIP Report's imminent release. The text of the TIP Report country narrative is provided, both for use in informing the Government of Lesotho and in any local media release by Post's public affairs section on June 16 or thereafter. Drawing on information provided below in paras 8 and 9, Post may provide the host government with the text of the TIP Report narrative no earlier than 1200 noon local time Monday June 15 for WHA, AF, EUR, and NEA countries and OOB local time Tuesday June 16 for SCA and EAP posts. Please note, however, that any public release of the Report's information should not/precede the Secretary's release at 10:00 am EDT on June 16.

14. The entire TIP Report will be available on-line at www.state.gov/g/tip shortly after the Secretary's June 16 release. Hard copies of the Report will be pouched to posts in all countries appearing on the Report. The Secretary's statement at the June 16 press event, and the statement of and fielding of media questions by G/TIP's Director and Senior Advisor to the Secretary, Ambassador-at-Large Luis CdeBaca, will be available on the Department's website shortly after the June 16 event. Ambassador de Baca will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

15. Action Request: No earlier than 12 noon local time on Monday June 15 for WHA, AF, EUR, and NEA posts and OOB local time on Tuesday June 16 for SCA and EAP posts, please inform the appropriate official in the Government of Lesotho of the June 16 release of the 2009 TIP Report, drawing on the points in para 9 (at Post's discretion) and including the text of the country narrative provided in para 8. For countries where the State Department has lowered the tier ranking, it is particularly important to advise governments prior to the Report being released in Washington on June 16.

16. Action Request continued: Please note that, for those countries which will not receive an "action plan" with specific recommendations for improvement, posts should draw host governments' attention to the areas for improvement identified in the 2009 Report, especially highlighted in the "Recommendations" section of the second paragraph of the narrative text. This engagement is important to establishing the framework in which the government's performance will be judged for the 2010 Report. If posts have questions about which governments will receive an action plan, or how they

may follow up on the recommendations in the 2009 Report, please contact G/TIP and the appropriate regional bureau.

¶7. Action Request continued: On June 16, please be prepared to answer media inquiries on the Report's release using the press guidance provided in para 11. If Post wishes, a local press statement may be released on or after 10:30 am EDT June 16, drawing on the press guidance and the text of the TIP Report's country narrative provided in para 8.

¶8. Begin Final Text of Lesotho's country narrative in the 2009 TIP Report:

Lesotho (TIER 2 WATCH LIST)

Lesotho is a source country for women and children trafficked for the purposes of sexual exploitation and forced labor. Victims are trafficked internally and to South Africa for domestic work, farm labor, and commercial sexual exploitation. Women and girls are also brought to South Africa for forced marriages in remote villages. Nigerian traffickers acquire Basotho victims for involuntary servitude in households of Nigerian families living in London. Chinese organized crime units acquire victims while transiting Lesotho and traffic them to Johannesburg, where they

STATE 00060530 002 OF 005

& distribute them locally or traffic them overseas. Identified traffickers in Lesotho tend to be white, Afrikaans-speaking men and long-distance truck drivers. Women and children attempting to support families affected by HIV/AIDS and Basotho looking for better employment prospects in South Africa are most likely to be lured by a trafficker's fraudulent offer of a legitimate job.

The Government of Lesotho does not comply with minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Despite these overall significant efforts, the government has not demonstrated progress in combating human trafficking through effective law enforcement; therefore, Lesotho is placed on the Tier 2 Watch List. A program to train officers in several law enforcement agencies to identify trafficking situations as part of a general strategy to improve law enforcement has not yet resulted in any trafficking related arrests or prosecutions. Officials increased some anti-trafficking efforts, especially in raising the public's awareness of the risks of trafficking, even as most of their limited resources were directed at addressing the country's debilitating HIV/AIDS pandemic.

Recommendations for Lesotho: Enact a comprehensive law prohibiting all forms of human trafficking; collect data on victims identified and assisted, trafficking offenses investigated and prosecuted, and trafficking offenders convicted and punished; ensure that victims are not inappropriately punished for acts committed as a direct result of being trafficked; provide increased training, possibly in conjunction with NGOs, to law enforcement officers in victim identification, particularly at border points; provide shelter and services to victims of trafficking, possibly in collaboration with international organizations and NGOs; and increase efforts to raise public awareness of trafficking.

Prosecution

The government did not increase its law enforcement efforts during the past year. Lesotho has no comprehensive anti-trafficking law, which hinders the government's ability to address human trafficking. Slavery and forced labor are constitutionally prohibited. Existing laws governing

abduction, kidnapping, labor exploitation, immigration and sexual abuse of children were used to prosecute trafficking-related crimes in the past. The Child Protection Act of 1980, the Sexual Offenses Act of 2003, the Common Law, and the Labor Code Order of 1981, as amended, prescribe penalties of at least five years, imprisonment for trafficking crimes, which are sufficiently stringent and commensurate with penalties prescribed for other serious crimes. The Child Protection and Welfare Bill, drafted in 2005, defines child trafficking and prescribes penalties of 20 years, imprisonment for convicted offenders. This bill is currently under final review with the Office of the Attorney General. No current or draft laws specifically penalize the trafficking of adults. The government did not provide data on trafficking prosecutions or convictions in the past year. Other sources stated that investigations of trafficking-related situations are rare because trafficking is not specifically defined as a crime under existing laws, and law enforcement resources and capacity are limited. Some police and customs officers and members of the Lesotho Mounted Police Services, Child and Gender Protection Unit (CGPU) received training on detecting and curbing a range of illegal activities at border posts, including human trafficking. Law enforcement officers did not proactively identify trafficking victims among vulnerable populations such as women and children in prostitution or illegal migrants, and have not been adequately trained to recognize victims they may encounter as part of their normal duties.

Protection

The Lesotho government took inadequate steps to protect victims of trafficking over the last year. Officials did not proactively identify victims, and have no formal mechanism for referring victims to service providers. Lesotho has no care facilities specifically for trafficking victims. Orphanages supported by the government of Lesotho and NGOs are available to provide some services to children identified as victims of trafficking. The CGPU staff provided counseling to women and children who are victims of abuse, including some who were possibly trafficking victims. Existing law does not protect victims from prosecution for offenses committed as a direct result of being trafficked. Information is not available on whether authorities encouraged or would encourage victims to participate in anti-trafficking investigations and prosecutions. The law

STATE 00060530 003 OF 005

also did not provide foreign victims of trafficking with alternatives to their removal to countries where they may face hardship or retribution.

Prevention

The government modestly increased its efforts to prevent trafficking during the year. Immigration authorities monitored border crossings for indications of transnational crimes such as smuggling and kidnapping, and received basic training in detecting potential trafficking situations. Police raised public awareness of human trafficking through radio programs and brochures explaining what trafficking is and how to identify it. The government also encouraged the public to report instances of rape, physical abuse, and sexual harassment, including potential sex trafficking situations, and began an associated increase in telephone access in rural areas. In an on-going partnership with NGOs, the CGPU trained 250 children and 70 parents how to report possible child abuse, including suspected incidents of child sex and labor trafficking. A committee composed of several government ministries and the GCPU of the police had nominal responsibility for coordinating policy on trafficking, but was not active during 2008 and early 2009. The government, s ongoing, incremental implementation of tuition-free primary education expanded compulsory school enrollment and attendance in an effort to identify all school-aged children, prevent inappropriate child labor, and reduce children, s

vulnerability to trafficking and other crimes.

19. Post may wish to deliver the following points, which offer technical and legal background on the TIP Report process, to the host government as a non-paper with the above TIP Report country narrative:

(begin non-paper)

-- The U.S. Congress, through its passage of the 2000 Trafficking Victims Protection Act, as amended (TVPA), requires the Secretary of State to submit an annual Report to Congress. The goal of this Report is to stimulate action and create partnerships around the world in the fight against modern-day slavery. The USG approach to combating human trafficking follows the TVPA and the standards set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (commonly known as the "Palermo Protocol"). The TVPA and the Palermo Protocol recognize that this is a crime in which the victims, labor or services (including in the "sex industry") are obtained or maintained through force, fraud, or coercion, whether overt or through psychological manipulation. While much attention has focused on international flows, both the TVPA and the Palermo Protocol focus on the exploitation of the victim, and do not require a showing that the victim was moved.

-- Recent amendments to the TVPA removed the requirement that only countries with a "significant number" of trafficking victims be included in the Report. Beginning with the 2009 TIP Report, countries determined to be a country of origin, transit, or destination for victims of severe forms of trafficking are included in the Report and assigned to one of three tiers. Countries assessed as meeting the "minimum standards for the elimination of severe forms of trafficking" set forth in the TVPA are classified as Tier 1. Countries assessed as not fully complying with the minimum standards, but making significant efforts to meet those minimum standards are classified as Tier 2. Countries assessed as neither complying with the minimum standards nor making significant efforts to do so are classified as Tier 3.

-- The TVPA also requires the Secretary of State to provide a "Special Watch List" to Congress later in the year. Anti-trafficking efforts of the countries on this list are to be evaluated again in an Interim Assessment that the Secretary of State must provide to Congress by February 1 of each year. Countries are included on the "Special Watch List" if they move up in "tier" rankings in the annual TIP Report -- from 3 to 2 or from 2 to 1) or if they have been placed on the Tier 2 Watch List.

-- Tier 2 Watch List consists of Tier 2 countries determined: (1) not to have made "increasing efforts" to combat human trafficking over the past year; (2) to be making significant efforts based on commitments of anti-trafficking reforms over the next year, or (3) to have a very significant number of trafficking victims or a significantly increasing victim population. As indicated in reftel B, the TVPRA of 2008 contains a provision requiring that a country that has been

STATE 00060530 004 OF 005

included on Tier 2 Watch List for two consecutive years after the date of enactment of the TVPRA of 2008 be ranked as Tier 13. Thus, any automatic downgrade to Tier 3 pursuant to this provision would take place, at the earliest, in the 2011 TIP Report (i.e., a country would have to be ranked Tier 2 Watch List in the 2009 and 2010 Reports before being subject to Tier 3 in the 2011 Report). The new law allows for a waiver of this provision for up to two additional years upon a determination by the President that the country has developed

and devoted sufficient resources to a written plan to make significant efforts to bring itself into compliance with the minimum standards.

-- Countries classified as Tier 3 may be subject to statutory restrictions for the subsequent fiscal year on non-humanitarian and non-trade-related foreign assistance and, in some circumstances, withholding of funding for participation by government officials or employees in educational and cultural exchange programs. In addition, the President could instruct the U.S. executive directors to international financial institutions to oppose loans or other utilization of funds (other than for humanitarian, trade-related or certain types of development assistance) with respect to countries on Tier 3. Countries classified as Tier 3 that take strong action within 90 days of the Report's release to show significant efforts against trafficking in persons, and thereby warrant a reassessment of their Tier classification, would avoid such sanctions. Guidelines for such actions are in the DOS-crafted action plans to be shared by Posts with host governments.

-- The 2009 TIP Report, issuing as it does in the midst of the global financial crisis, highlights high levels of trafficking for forced labor in many parts of the world and systemic contributing factors to this phenomenon: fraudulent recruitment practices and excessive recruiting fees in workers, home countries; the lack of adequate labor protections in both sending and receiving countries; and the flawed design of some destination countries, "sponsorship systems" that do not give foreign workers adequate legal recourse when faced with conditions of forced labor. As the May 2009 ILO Global Report on Forced Labor concluded, forced labor victims suffer approximately \$20 billion in losses, and traffickers, profits are estimated at \$31 billion. The current global financial crisis threatens to increase the number of victims of forced labor and increase the associated "cost of coercion."

-- The text of the TVPA and amendments can be found on website www.state.gov/g/tip.

-- On June 16, 2009, the Secretary of State will release the ninth annual TIP Report in a public event at the State Department. We are providing you an advance copy of your country's narrative in that report. Please keep this information embargoed until 10:00 am Washington DC time June 16. The State Department will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

(end non-paper)

10. Posts should make sure that the relevant country narrative is readily available on or through the Mission's web page in English and appropriate local language(s) as soon as possible after the TIP Report is released. Funding for translation costs will be handled as it was for the Human Rights Report. Posts needing financial assistance for translation costs should contact their regional bureau's EX office.

11. The following is press guidance provided for Post to use with local media.

Q1: Why is Lesotho ranked on the Report this year on Tier 2 Watch List?

A. Lesotho was placed on the TIP Report because there is evidence that it is a country of origin, transit, or destination for victims of severe forms of trafficking. The Government of Lesotho does not comply with minimum standards for the elimination of trafficking; however, it is making significant efforts to do so. Despite these overall significant efforts, the government has shown no evidence of increasing efforts to combat human trafficking through effective law enforcement; therefore, Lesotho is placed on the Tier 2 Watch List. A program to train officers in

several law enforcement agencies to identify trafficking situations as part of a general strategy to improve law enforcement has not yet resulted in any trafficking related arrests or prosecutions. Officials increased some anti-trafficking efforts, especially in raising the public's awareness of the risks of trafficking, even as most of their

STATE 00060530 005 OF 005

limited resources were directed at addressing the country's debilitating HIV/AIDS pandemic.

Q2: What is the nature of the trafficking situation in Lesotho?

A. Lesotho is a source country for women and children trafficked for the purposes of sexual exploitation and forced labor. Victims are trafficked internally and to South Africa for domestic work, farm labor, and commercial sexual exploitation. Women and girls are also brought to South Africa for forced marriages in remote villages. Traffickers associated with international organized crime units are known to operate in and through Lesotho. While officials increased some anti-trafficking activities, especially in raising the public's awareness of the risks of trafficking, the government has shown no evidence of increasing and vigorous law enforcement efforts to combat human trafficking.

Q3: How can Lesotho further its anti-trafficking efforts over the next year?

A. The government could enact a comprehensive law prohibiting all forms of human trafficking; collect data on victims identified and assisted, trafficking offenses investigated and prosecuted, and trafficking offenders convicted and punished; ensure that victims are not inappropriately punished for acts committed as a direct result of being trafficked; provide increased training, possibly in conjunction with NGOs, to law enforcement officers in victim identification, particularly at border points; provide shelter and services to victims of trafficking, possibly in collaboration with international organizations and NGOs; and increase efforts to raise public awareness of trafficking.

12. The Department appreciates posts, assistance with the preceding action requests.
CLINTON